



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 3, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 3, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

Call to Order

Mr. Vincent called the meeting to order.

M 168 12 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)" and "Possible Action on Executive Session Items"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Corre- spondence

Mr. Moore read the following correspondence:

CALVARY CAFÉ AND COMMUNITY CLOTHES CLOSET, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

CAPE CRUSADERS BASKETBALL, REHOBOTH BEACH,

DELAWARE.

RE: Letter in appreciation of grant.

SOUTHERN DELAWARE TOURISM, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

**Advisory
Committee
Report/
Strategic
Plan**

Sally Beaumont and Anna Short, members of the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County, presented the Committee's Strategic Plan.

Ms. Short stated that they began working on the Plan in May 2011 with their intention being to develop a focused approach to effectively fulfill their mission. The Committee's mission is to increase dialogue, make recommendations to Sussex County Council, and to give support, assistance and advice on significant issues and programs that may affect the lives of the County's aging and adults with physical disabilities populations. The Committee's focus is that of liaison between the Sussex County Council and the elderly and disabled populations of the County. In order to be accountable to those it serves, the Committee developed a Strategic Plan that includes specific achievable goal(s), a plan for how to complete the task and produce a measurable outcome. Ms. Short stated that they developed Smart Goals, meaning that they are specific, measurable, achievable, realistic and relevant, timely and trackable.

Ms. Short outlined the goals that were developed:

- Develop a profile of present and projected 5 to 10 year elderly and population needs throughout the County.
- Develop a leadership consortium of advocate groups for the elderly and disabled populations in Sussex County to validate the needs and identify potential solutions.
- Develop, maintain and strengthen effective two-way communication throughout the County between elderly and disabled service consumers, service providers and County officials.

Ms. Beaumont stated that they want to take their Strategic Plan to each Councilmanic District over the next three to four months. Additionally, they plan to form a consortium of people that provide services to the aging and hold an annual conference. She invited the Council to participate in the meetings in the Councilmanic Districts and get to know the Council's Committee appointments in each District.

**Employee
of the
Quarter**

The Council recognized Michelle Warren, Employee of the Quarter for the First Quarter 2012. Michelle works in the Engineering Department in the Utility Planning Division.

Present Proclamation	A Proclamation entitled “ RECOGNIZING APRIL AS CHILD ABUSE PREVENTION MONTH IN SUSSEX COUNTY ” was presented to Marcie Urgo who was in attendance representing Children & Families First, Georgetown Office.
Board Appointment	Mr. Lawson announced that several terms were expiring on the Building Code and Housing Code Appeal Board.
M 169 12 Reappoint Board Members	<p>A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Sussex County Council approves the reappointment of Bradley Layfield (District 5) and Kevin Pritchett (District 2) to the Sussex County Building Code and Housing Code Appeal Board effective April 3, 2012 for a term of 4 years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Administrator’s Report	<p>Mr. Lawson read the following information in his Administrator’s Report:</p> <p>1. <u>Easter Holiday</u></p> <p>County offices will be closed on April 6, 2012, in honor of Good Friday. Offices will reopen on Monday, April 9, at 8:30 a.m. The County Council will not meet on April 10, 2012. The next meeting of Council will be held on Tuesday, April 17, 2012.</p> <p>2. <u>Delaware State Police Activity Report – February 2012</u></p> <p>As per the attached Delaware State Police activity report for February, there were 4,305 total traffic arrests and 1,069 criminal arrests. Of the 1,069 criminal arrests, 233 were felony and 836 were misdemeanor criminal arrests. Of the total hours spent on duty, 41 percent were spent on criminal investigations.</p> <p>[Attachments to the Administrator’s Report are not attachments to the minutes.]</p>
Legislative Update	<p>Hal Godwin, Deputy County Administrator, presented the following Legislative Update:</p> <p>Senate Bill No. 167 – AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE LEGALITY OF ANY ORDINANCE, CODE, REGULATION OR MAP RELATING TO ZONING</p> <p>Synopsis: If a municipality or county passes a land-use ordinance that violates state law, an aggrieved party has only 60 days to file a court</p>

Legislative
Update
(continued)

challenge. After that, the ordinance cannot be challenged, nor can subsequent decisions based on that ordinance be challenged based on its invalidity. This Bill seeks to remove that bar, recognizing that the enactment of an ordinance that violates state law cannot be legitimized by the passage of time.

Mr. Godwin stated that this Bill minimizes the effect and authority of local governments in local land use. He noted that Senator Peterson (the Primary Sponsor of the Bill) has promised that this Bill will not move forward since she believes the Bill, as written, does not achieve what she is trying to do.

House Bill No. 152 – AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

Synopsis: This Act makes §4019(e) effective only after a County or Municipality has done a reassessment of all real estate located in that jurisdiction.

Mr. Godwin explained that this Bill would change the current requirement in Title 24, Chapter 4019(e) that requires Counties and Municipalities to train and certify their tax assessors as real estate appraisers. This amendment would delay retraining and certification; retraining and certification would be required only if and after a property reassessment in each jurisdiction.

Mr. Godwin reported that this Bill was introduced during the last General Assembly session and tabled in Committee. He noted that a new piece of legislation has since been drafted, which has been approved by the Sussex County Attorney and by the other two counties. He noted that the original House Bill will most likely be stricken once the new Bill has been introduced (introduction may take place on April 5th).

Mr. Godwin distributed a copy of the draft legislation that has yet to be introduced. The new legislation would allow all three counties to continue to use their own uniform paradigm for assessing real estate and not the newly adopted standards.

House Bill No. 274 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Synopsis: This Bill amends Title 9 to require dog owners to obtain a dog license within thirty days of having their dogs vaccinated for rabies, and provides for exceptions. Additionally, this Bill would require veterinarians to notify dog owners of the licensing requirements.

Mr. Godwin noted that this Bill would allow dog licenses to be renewed any time of the year; currently, dog licenses must be renewed by March 31st of each year. He further noted that this Bill would provide more flexibility

without increasing costs.

This Bill has been voted out of Committee and is ready for the House Floor. Mr. Godwin stated that it may be amended or rewritten to consider the option of allowing veterinarians to issue and sell dog licenses.

Legislative
Update
(continued)

House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

Synopsis: This Bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owned by homeowners and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.

Mr. Godwin advised that he will speak in favor of this Bill.

House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO CAPITATION TAX

Synopsis: This Bill makes the Delaware law consistent in Sussex and Kent Counties by giving Sussex County government the same discretion as Kent County government to set its own capitation tax amount. As the law currently governs, Sussex County is required to set a minimum capitation tax amount of \$3.00. This Bill eliminates that requirement. New Castle County is not authorized to levy or collect a capitation tax.

Mr. Godwin stated that he would testify in support of the Bill at the Committee Hearing scheduled for April 4th.

House Bill No. 283 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT

Synopsis: This Bill makes the Delaware law consistent in Sussex and Kent counties by giving Sussex County government the same discretion as Kent County government to enact its personnel rules administratively. As the law currently governs, Sussex County is required to refer all proposed personnel rules to the County's Personnel Board, which requires adequate public notice and a formal public hearing. After the Personnel Board reviews and makes a recommendation, the law requires the county government to adopt the proposed rule by ordinance, which requires a second adequate public notice and a second formal public hearing. This Bill eliminates these requirements and allows Sussex County to enact its personnel rules administratively, the same as is allowed in Kent County.

Mr. Godwin stated that he would testify in support of the Bill at the Committee Hearing scheduled for April 4th.

SS-1 for Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Synopsis: This Substitute Bill adds protections for dogs housed outdoors during winter months and during extreme weather events. It also adds restrictions regarding the tethering of dogs. Finally, it requires outdoor dogs to have water available in spill-proof water receptacles.

**Legislative
Update
(continued)**

Mr. Godwin stated that Sussex County has a number of concerns with this Bill and that he believes all three counties oppose it. Mr. Godwin noted that the Bill is expected to be drastically changed or stricken.

House Bill No. 290 – AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16, 23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS AND SHERIFF DEPUTIES

Synopsis: This Bill makes the Delaware law clear that the county sheriffs and their deputies do not have arrest authority. Historically, the sheriffs and deputies have not exercised arrest authority and the Attorney General's office has given an opinion that the sheriff's "power to arrest is no greater than that shared by any citizen".

This Bill was tabled in Committee by the sponsor and there has been one amendment proposed which would amend Section 1 (15), Line 18, as follows (proposed amendment underlined):

Sheriffs and their regular deputies means law enforcement officer or officers and conservator of the peace, provided, however, the sheriffs and their regular deputies shall not have any arrest authority unless specifically so ordered by a Judge of Superior Court.

Mr. Godwin stated that the synopsis of the proposed amendment reads as follows: "The sheriffs or their deputies are occasionally ordered by Superior Court to take a person into civil commitment for non-compliance with an order or to transport that individual to the state hospital or other medical facility. This amendment will allow such duties to continue upon a specific order from the Court."

Senate Bill No. 149 – AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENDANGERED SPECIES

Synopsis: This Bill updates Title 7 Conservation, Chapter 6 Endangered Species, relating to conservation and endangered species. This Bill models the policies of neighboring states (i.e. Maryland and New Jersey). Provisions in this Bill define the powers and duties of listing and delisting of threatened and endangered species, rules and regulations, and implementation authority (DNREC).

Mr. Godwin reported that this Bill was introduced in June 2011 and has raised a lot of concerns in the agricultural community, all three counties, and most of the municipalities.

Mr. Godwin asked the Council members to read the legislation and to let him know if they support or oppose the Bill.

**Legislative
Update
(continued)**

Legislation to be proposed –

Mr. Godwin reported that the County’s Director of Assessment, Eddy Parker, has advised that, every March, the Board of Assessment Review sits for at least 15 days (as required by State Code) to hear possible appeals from the public about assessment rolls. Mr. Parker has proposed the possibility of legislation that would alter the requirement from “15 days” to “as needed”. It was noted that there have been very few times that the Board has had to meet regarding an appeal and Mr. Parker stated that it is a waste of the County’s resources. In 2012, there were no appeals. The Board members receive \$75.00 per day.

Mr. Parker stated that he is proposing that the State Code be amended so that the Board will meet in March of each year to hear cases on an as needed basis.

Mr. Vincent asked Mr. Lawson to draft legislation for the Council to consider.

**Pole
Building
Project
Update**

Julie Cooper, Project Engineer, presented an estimate for an equipment storage building for Rudder Lane at the Airport; total cost estimate is \$200,315.79 (\$18,210.53 in contingencies). The Council discussed the proposal.

**M 170 12
Proceed
with
Bidding/
Rudder
Lane
Pole
Building
Project**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that Sussex County Council hereby authorizes the Engineering Department to proceed with the bidding of Sussex County Project 11-12, Rudder Lane Pole Building.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Inland Bays
Projects**

Michael Izzo, County Engineer, presented bid results for Sussex County Project 12-11 (Spray Irrigation Expansion), Sussex County Project 12-12 (Mixers and Aeration Equipment), and Sussex County Project 12-13 (Sludge Dewatering Equipment), all of which are projects at the Inland Bays Regional Wastewater Facility, Expansion Phase 2A.

- M 171 12 Award Bid/ Inland Bays Spray Irrigation Expansion Project** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Consultants and the Sussex County Engineering Department, that Sussex County Project No. 12-11, Inland Bays Regional Wastewater Facility, Expansion Phase 2A – Spray Irrigation Expansion” be awarded to George and Lynch of Dover, Delaware, at the bid amount of \$683,274.00, contingent upon the receipt of approval from the funding agency.**
- M 171 12 (continued)** **Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 172 12 Award Bid/ Inland Bays Floating Mixers & Aeration Equipment Project** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Consultants and the Sussex County Engineering Department, that Sussex County Project No. 12-12, Inland Bays Regional Wastewater Facility, Expansion Phase 2A – Floating Mixers and Aeration Equipment” be awarded to Aqua Aerobic Systems, Inc. of Loves Park, Illinois, at the bid amount of \$189,500.00, contingent upon the receipt of approval from the funding agency.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 173 12 Award Bid/ Inland Bays Sludge Dewatering Equipment Project** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Consultants and the Sussex County Engineering Department, that Sussex County Project No. 12-13, Inland Bays Regional Wastewater Facility, Expansion Phase 2A – Sludge Dewatering Equipment” be awarded to Ashbrook Simon - Hartley Operations, L.P. of Houston Texas, at the bid amount of \$325,000.00, contingent upon the receipt of approval from the funding agency.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- Issuance of Franchises** **Mrs. Deaver referenced a previous discussion of the Council’s regarding the County issuing franchises for sewer service instead of the Public Service Commission. Mr. Lawson responded that the County is exploring the idea.**
- Grant Requests** **Mrs. Webb reviewed grant requests for the Council’s consideration.**
- M 174 12** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give**

Community Grant **\$1,000.00 (\$500.00 each from Mr. Phillips' and Mr. Vincent's Community Grant Accounts) to the Laurel Independence Day Committee for the annual fireworks celebration.**

Motion Adopted: 5 Yeas.

M 174 12 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
(continued) **Mr. Phillips, Yea; Mr. Wilson, Yea;**
 Mr. Vincent, Yea

M 175 12 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give**
Community Grant **\$300.00 (\$150.00 each from Mr. Phillips' and Mr. Vincent's Community**
 Grant Accounts) to New Zion United Methodist for a basketball
 tournament fundraiser and community awareness day.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 176 12 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give**
Community Grant **\$500.00 (\$400.00 from Mr. Vincent's Community Grant Account and**
 \$100.00 from Mr. Phillips' Community Grant Account) to the Western
 Sussex Farmers Market for operating expenses.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 177 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give**
Community Grant **\$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Phillips' Community**
 Grant Accounts) to the Farmers Market at Sea Colony for operating
 expenses.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 178 12 **A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give**
Community Grant **\$500.00 (\$250.00 each from Mrs. Deaver's and Mr. Wilson's Community**
 Grant Accounts) to MHS After-Prom Committee to sponsor Milford High
 School's After-Prom Party.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 179 12 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00**
Community **(\$100.00 from each Community Grant Account) to Big Brothers Big Sisters**
Grant **of Delaware to sponsor a fundraiser for At Risk Kids of Sussex County.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Introduction **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Zoning **AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR**
Ordinances **AND AUTO REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF**
 LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX
 COUNTY, CONTAINING 20,437 SQUARE FEET, MORE OR LESS”
 (Tax Map 5-33-17.00 Parcel 179.00) (Part of) (Conditional Use No. 1929)
 filed on behalf of Everett Dennis & David Harbin.

Mrs. Deaver introduced the Proposed Ordinance entitled “AN
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1
NEIGHBORHOOD BUSINESS DISTRICT FOR A MULTI-FAMILY
DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A
CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE
HUNDRED, SUSSEX COUNTY, CONTAINING 8,030 SQUARE FEET,
MORE OR LESS (Tax Map 1-34-13.15-159.00) (Conditional Use No. 1930)
filed on behalf of Penn Central, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

Additional **Public comments were heard under Additional Business.**
Business

Dan Kramer commented on the Council granting funds to churches and he
stated that this practice is unconstitutional.

Eric Bodenweiser spoke in opposition to House Bill No. 290.

Scott Collins, Selbyville Chief of Police; Bill Topping, Georgetown Chief of
Police; and William Breasure, citizen, spoke in support of House Bill No.
290.

**M 180 12
Recess**

At 11:34 a.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 181 12
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to reconvene.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public
Hearing/
C/U
No. 1924**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY (ABOVE GROUND STORAGE TANK) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.19 ACRES, MORE OR LESS” (Conditional Use No. 1924) filed on behalf of Colony Pool Service.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 8, 2012 at which time the Commission deferred action. On March 22, 2012, the Commission recommended approval with the following conditions:

- A. The use shall be limited to the proposed 6,250 gallon vertical tank as stated during the Applicant’s presentation within the Sussex Shores Water Company, Inc. water plant compound.**
- B. In the event that the Conditional Use issued to Sussex Shores Water Company, Inc. shall terminate, this Conditional use shall also automatically terminate.**
- C. As stated by the Applicant, the use shall be seasonal from April 15 through October 15.**
- D. As further stated by the Applicant, deliveries to and from the storage tank shall be limited to Monday through Friday between 8:00 a.m. and 4:00 p.m.**
- E. The tank area shall be enclosed with fencing and the fencing shall contain a sign with notification information in the event of a leak or other damage to the tank. The notification shall include a 911 reference and phone number for the owner and the Department of Natural Resources and Environmental Control (DNREC). Such a sign shall also be installed at the entrance to the Sussex Shores facility.**
- F. Prior to the issuance of the Final Site Plan approval, the Applicant**

shall provide the Office of Planning and Zoning with confirmation that it has notified the State Fire Marshal of the intended use and the chemical that will be stored on site.

G. The Applicant shall comply with any and all Federal, State and County regulatory agencies having authority and jurisdiction over the proposed use; in addition, the Applicant shall comply with applicable County Building Code requirements for construction of this structure in a coastal high-wind area.

H. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Public
Hearing/
C/U

No. 1924
(continued)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

(See the minutes of the Planning and Zoning Commission dated March 8 and 22, 2012.)

Mr. Lank read into the record a letter from the Office of the Delaware State Fire Marshal written to Colony Pool Service. The letter states that "the Delaware State Fire Prevention regulations do not apply to your project" and "the Delaware State Fire Marshal's Office has no objection to the installation of the above ground storage tank – our office will require site plan submittal to show the location of the tank on the site and fire department access to the tank".

The Council found that Josiah Wolcott, Attorney, and Tim Kelly of Colony Pool Service were present and stated that the application is for a Conditional Use within a Conditional Use; that Sussex Shores already has a Conditional Use for a public utility and this application would only be for the purpose of adding a 6,250 containment tank; that there will never be more than 5,000 gallons of the sodium hypochlorite solution in the tank at any one time; that sodium hypochlorite is common household bleach; that the tank is built like a thermos with a tank inside of another tank and if there is a leak it would be contained; that they have notified the State Fire Marshal's Office and the Bethany Beach Fire Company, who requested that a Knox Box be installed on the outside of the fence leading into the property owned by Sussex Shores as well as the fence surrounding the containment tank; that the Knox Box has a key that only fire companies can access in the event of an emergency; that the fence surrounding the containment tank will be a standard chain-link barbwire fence with a chained lock on it; that the tank will be for seasonal use (April 15 to October 15) and will only be accessed during regular business hours; and that there is a much larger water tank on the property.

Mr. Cole questioned if the Applicant had any objections to providing landscaping and the Applicant questioned where the landscaping would be required. Mr. Cole responded "on the north side, the predominant area".

There were no public comments and the Public Hearing was closed.

M 182 12
Close Public
Record
C/U 1924

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to close the public record on Conditional Use No. 1924.

Motion Adopted: 5 Yeas.

M 182 12
(continued)

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 183 12
Amend
Conditions
Recom-
mended by
Commission

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend the conditions recommended by the Planning and Zoning Commission by amending Condition H, as follows:

The Final Site Plan, with a landscape plan, shall be subject to review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 184 12
Adopt
Ordinance
No. 2247
(C/U
No. 1924)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2247 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A PUBLIC UTILITY (ABOVE GROUND STORAGE TANK) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.19 ACRES, MORE OR LESS” (Conditional Use No. 1924) filed on behalf of Colony Pool Service, with the following conditions, as amended:

- A. The use shall be limited to the proposed 6,250 gallon vertical tank as stated during the Applicant’s presentation within the Sussex Shores Water Company, Inc. water plant compound.**
- B. In the event that the Conditional Use issued to Sussex Shores Water Company, Inc. shall terminate, this Conditional use shall also automatically terminate.**
- C. As stated by the Applicant, the use shall be seasonal from April 15 through October 15.**
- D. As further stated by the Applicant, deliveries to and from the storage tank shall be limited to Monday through Friday between 8:00 a.m. and 4:00 p.m.**
- E. The tank area shall be enclosed with fencing and the fencing shall contain a sign with notification information in the event of a leak or other damage to the tank. The notification shall include a 911**

reference and phone number for the owner and the Department of Natural Resources and Environmental Control (DNREC). Such a sign shall also be installed at the entrance to the Sussex Shores facility.

F. Prior to the issuance of the Final Site Plan approval, the Applicant shall provide the Office of Planning and Zoning with confirmation that it has notified the State Fire Marshal of the intended use and the chemical that will be stored on site.

M 184 12
Adopt
Ordinance
No. 2247
(C/U
No. 1924)
(continued)

G. The Applicant shall comply with any and all Federal, State and County regulatory agencies having authority and jurisdiction over the proposed use; in addition, the Applicant shall comply with applicable County Building Code requirements for construction of this structure in a coastal high-wind area.

H. The Final Site Plan, with a landscape plan, shall be subject to review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Public
Hearing/
C/U
No. 1925

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE AND TRUCKING STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 10.54 ACRES, MORE OR LESS” (Conditional Use No. 1925) filed on behalf of Piedmont Leasing.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 8, 2012 at which time the Commission deferred action. On March 22, 2012, the Commission recommended approval with the following conditions:

- A. The use shall be limited to a trucking storage operation and an office as stated by the Applicant.
- B. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- C. The hours of operation shall be from noon to midnight, Monday through Saturday.
- D. No livestock shall be kept on the land at any time.
- E. There shall be no manure handling or storage on site.
- F. There shall only be light mechanical work allowed on the site and it shall occur within the existing building for the Applicant’s equipment and vehicles only.
- G. There shall not be any outside storage of permanently inoperable, junked or abandoned vehicles or equipment.

Public
Hearing/
C/U
No. 1925
(continued)

- H. Used oil and greases shall be disposed of off-site via an approved environmentally safe method.
- I. There shall be no more than 2 tractors, 4 vans, and 35 forklifts and 12 low-boy trailers on the site at any one time.
- J. The areas set aside for vehicles, equipment and employee parking shall be clearly delineated on the Final Site Plan and on the site itself. There shall be parking for at least 3 employees.
- K. A forested buffer of at least 10 feet wide shall be provided along the perimeter of the use except for the boundaries along County roadways. The location of this forested buffer and a landscape plan shall be included as part of the Final Site Plan.
- L. Any dumpsters on the site shall be screened from view from neighboring properties or roadways.
- M. Upon approval of this Conditional Use by Sussex County Council, all prior Conditional Uses for this property shall automatically terminate.
- N. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

(See the minutes of the Planning and Zoning Commission dated March 8 and 22, 2012.)

The Council found that Howard Hudson, Attorney, and Don Hayes, Operations Manager with Piedmont Leasing, were present and stated that Piedmont Leasing is a chicken-catching business; that they have 18 crews and 3 members of management; that they currently work for Perdue Farms and Mountaire; that the crews do not use this site; that this site would be used for storage and light maintenance of the forklifts and lowboys; that any major work is taken to Eastern Shore Poultry; that 2 spare vans are kept on site; that, in regards to the proposed hours, they are hoping that the mechanics can come in and work a regular day (starting at 8:00 a.m.) and not be limited by the Noon to Midnight hours (proposed Condition C) which related to the trucking areas; and that they propose to use only a small area of the site versus the entire area.

Public comments were heard.

Sam Villari of S & J Villari Livestock spoke in support of the application.

There were no public comments in opposition to the application.

The Public Hearing was closed.

M 185 12
Close Public
Record/

A Motion was made by Mr. Phillips, seconded by Wilson, to close the public record on Conditional Use No. 1925 filed on behalf of Piedmont Leasing.

C/U 1925 Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 186 12 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend
Amend Condition C recommended by the Planning and Zoning Commission, as
Conditions follows: “The hours of operation shall be from 7:00 a.m. to midnight,
Recom- Monday through Saturday.”**

**mended by Motion Adopted: 5 Yeas.
Commission**

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 187 12 A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt
Adopt Ordinance No. 2248 entitled “AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
No. 2248/ RESIDENTIAL DISTRICT FOR AN OFFICE AND TRUCKING
C/U STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND
No. 1925 LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY,
CONTAINING 10.54 ACRES, MORE OR LESS” (Conditional Use No.
1925) filed on behalf of Piedmont Leasing, with the following conditions, as
amended:**

- A. The use shall be limited to a trucking storage operation and an office as stated by the Applicant.**
- B. All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- C. The hours of operation shall be from 7:00 a.m. to midnight, Monday through Saturday.**
- D. No livestock shall be kept on the land at any time.**
- E. There shall be no manure handling or storage on site.**
- F. There shall only be light mechanical work allowed on the site and it shall occur within the existing building for the Applicant’s equipment and vehicles only.**
- G. There shall not be any outside storage of permanently inoperable, junked or abandoned vehicles or equipment.**
- H. Used oil and greases shall be disposed of off-site via an approved environmentally safe method.**
- I. There shall be no more than 2 tractors, 4 vans, and 35 forklifts and 12 low-boy trailers on the site at any one time.**
- J. The areas set aside for vehicles, equipment and employee parking shall be clearly delineated on the Final Site Plan and on the site itself. There shall be parking for at least 3 employees.**

K. A forested buffer of at least 10 feet wide shall be provided along the perimeter of the use except for the boundaries along County roadways. The location of this forested buffer and a landscape plan shall be included as part of the Final Site Plan.

L. Any dumpsters on the site shall be screened from view from neighboring properties or roadways.

M. Upon approval of this Conditional Use by Sussex County Council, all prior Conditional Uses for this property shall automatically terminate.

N. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**M 187 12
Adopt
Ordinance
No. 2248/
C/U
No. 1925
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 188 12
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:08 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

